



February 4, 2019

Ex Parte

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St. SW  
Washington, D.C. 20554

**Re: USTelecom Ex Parte Notice, WC Dkt. No. 10-90, *Connect America Fund***

Dear Ms. Dortch:

On January 31, 2019, USTelecom and some of its members met with Preston Wise, Acting Special Counsel to Chairman Pai, to discuss the Commission's draft Order phasing down legacy voice support.<sup>1</sup> Meeting participants ("USTelecom") included Mary Henze, AT&T; Jeff Lanning, CenturyLink; Mike Skrivan (via phone), Consolidated Communications; AJ Burton, Frontier; and Alan Buzacott, Verizon; and Patrick Halley and myself representing USTelecom.

US Telecom noted that sections III.A and III.B of the draft order take a reasonable approach to addressing the immediate task of disaggregating frozen support. However, USTelecom remained steadfast that the Commission should provide adequate support to price cap ILECs that are mandated to provide voice services in extremely high cost areas that are not funded as part of the CAF II program.<sup>2</sup> USTelecom advocated that the Commission must either provide funding commensurate with the obligations or it should provide guidance on a path forward to relieve price cap carriers of their unfunded mandate.

In its June 2018 filing, USTelecom proposed a consensus funding mechanism and budget that would meet the expected needs for price cap carriers fulfilling their obligation to provide voice services in extremely high cost areas. The draft Order prematurely dismisses this proposal because it "would far exceed a reasonable amount of legacy support for carriers to continue serving only those areas not won at auction"<sup>3</sup> but does not take into account that the areas won in auction have not yet been finalized (and thus we do not yet know the extent of the areas that were not won, for which voice support will be warranted). Because USTelecom has not yet been able to revise its proposal to reflect the support required in light of the CAF 2 auction, and because at this time the Commission only needs to address the disaggregation of frozen support,

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<sup>1</sup> *Connect America Fund*, Report and Order, WC Docket No. 10-90, FCC-CIRC1901-01 (rel. Jan. 3, 2019) ("Draft Report & Order").

<sup>2</sup> Letter from Mike Saperstein, USTelecom, to Marlene H. Dortch, FCC, WC Docket. No. 10-90 (June 29, 2018) ("USTelecom Proposal").

<sup>3</sup> Draft Report and Order at para. 22.

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we asked the Commission to postpone treatment of its proposal to a further order. Specifically, we requested for the Commission to delete section III.C. from the Report and Order as prematurely decided.

In the event the Commission does not remove section III.C., which it should, we asked for a further edit to the section. Specifically, in paragraph 20, we requested the second sentence to be amended as follows:

“The existence of ~~non-fixed~~ voice service options offered by non-ETCs within a particular census block does not guarantee that consumers there will continue to have access to voice service in the absence of an ETC being required to serve those consumers.”

Without this change the Order is inconsistent with section 214(e)(4) of the Communications Act, which permits ETCs to relinquish their ETC designation in any area served by more than one ETC.<sup>4</sup>

USTelecom also requested the Commission amend its discussion of potential additional case-by-case support request to clarify that any required earnings review would be targeted to the earnings of the areas for which support was requested.<sup>5</sup> It would be inappropriate for the Commission to refuse to provide necessary funding to meet a service obligation on the basis that the company is otherwise profitable.<sup>6</sup>

Please contact me with any questions.

Sincerely,



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Mike Saperstein  
Vice President, Law & Policy

cc: Preston Wise

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<sup>4</sup> See 47 U.S.C. § 214(e)(4); USTelecom Proposal at n.16.

<sup>5</sup> Draft Report and Order at para. 26.

<sup>6</sup> See generally *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (rejecting the concept that ILECs can implicitly cross-subsidize rural services); see also 47 U.S.C. § 254(e) (“Any such [universal service] support should be explicit and sufficient to achieve the purposes of this section.”).